

CLERK

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Case No. 5:21-cv-7

2. Plaintiff's Complaint alleges negligence on the part of Defendants in connection with dental care that Plaintiff received from Dr. Vallabhaneni in mid-to-late 2016. *See id.*

3. At the time of the incidents out of which this suit arose, CHCB was deemed by the Secretary of the United States Department of Health and Human Services to be an employee of the Public Health Service for purposes of § 224 of the PHSA, 42 U.S.C. § 233. *See* Declaration of Meredith Torres, dated January 13, 2021 (**Exhibit B**), ¶ 5, Ex. 1.

4. At the time of the incidents out of which this suit arose, Dr. Vallabhaneni was a duly-licensed dentist employed by CHCB and, by virtue of such employment, he was deemed by the Secretary of the United States Department of Health and Human Services to be an employee of the Public Health Service for purposes of § 224 of the PHSA, 42 U.S.C. § 233. *See id.* at ¶ 6; Declaration of Gopichand Vallabhaneni, DMD, dated November 3, 2020 (**Exhibit C**), ¶¶ 1-5; Declaration of Jeffrey McKee, Psy. D., dated November 16, 2020 (**Exhibit D**), ¶¶ 1-4.

5. Pursuant to §§ 224(a) and (g) of the PHSA, the remedy against the United States provided by the Federal Tort Claims Act of 1946 (“FTCA”), 28 U.S.C. §§ 1346(b), 2401(b), 2671-2680, for damages for personal injury resulting from the performance of dental functions by an employee of the Public Health Service acting within the scope of his or her employment, shall be *exclusive* of any other civil action or proceeding by reason of the same subject-matter against the employee whose act or omission gave rise to the claim. *See* 42 U.S.C. §§ 233(a), (g).

6. Section 224(c) of the PHSA provides that, upon certification by the Attorney General that a defendant employee of the Public Health Service was acting within the scope of his or her employment at the time of the incidents out of which such a suit arose, any such civil action or proceeding commenced against the employee in a state court “*shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort*

action brought against the United States under the provisions of Title 28 and all references thereto." 42 U.S.C. § 233(c) (emphasis added).

7. The Attorney General, by Christina E. Nolan, United States Attorney for the District of Vermont, has certified, pursuant to § 224(c) of the PHSA, 42 U.S.C. § 233(c), that Dr. Vallabhaneni was acting within the scope of his employment with CHCB at the time of the incidents out of which this suit arose. *See* Certification of Christina E. Nolan, dated January 14, 2021 (**Exhibit E**).


8. A trial has yet to be held in this case.

9. WHEREFORE, the action captioned *Kalanges v. Vallabhaneni, et al.*, Case No. 1047-11-19-Cncv, is hereby removed to this Court and deemed an action brought against the United States pursuant to the FTCA.

Dated at Burlington, in the District of Vermont, this 14th day of January, 2021.

Respectfully submitted,

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